

In the Supreme Court of the State of Nevada

IN THE MATTER OF THE CHRISTIAN)
FAMILY TRUST u.a.d. 10/11/16)
~~~~~ )  
SUSAN CHRISTIAN-PAYNE, )  
ROSEMARY KEACH AND )  
RAYMOND CHRISTIAN, JR. )

Appellants, )

-vs- )

ANTHONY L. BARNEY, LTD. and )  
JACQUELINE UTKIN, )  
Respondents. )  
~~~~~ )

ANTHONY L. BARNEY, LTD.,)
Cross-Appellant,)

-vs-)

SUSAN CHRISTIAN-PAYNE,)
ROSEMARY KEACH AND)
RAYMOND CHRISTIAN, JR.)
Cross-Respondents,)

and)
JACQUELINE UTKIN,)
Respondent.)
~~~~~ )

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Case No.: 75750

**APPELLANT/CROSS-RESPONDENTS' APPENDIX - VOLUME 3**

*Filed by:*

*/s/ Cary Colt Payne, Esq.*

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| <i><b>DATE</b></i>               | <i><b>DOCUMENT</b></i>                                                                                                                                                          | <i><b>NUMBERED</b></i> |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| <i><b>APPENDIX VOLUME 1:</b></i> |                                                                                                                                                                                 |                        |
| 7/13/17                          | Petition to Assume Jurisdiction of Trust;<br>Confirm Trustees; Instructions, etc.                                                                                               | APP-ROA--001-72        |
| 8/17/17                          | Notice of Motion and Motion to Dismiss<br>Pursuant to NRCP 12(b)(1) and NRCP 12 (b)(5)                                                                                          | APP-ROA—73-97          |
| 8/22/17                          | Errata to Notice of Motion and Motion to<br>Dismiss Pursuant to NRCP 12(b)(1) and<br>NRCP 12(b)(5)                                                                              | APP-ROA—98-101         |
| 9/15/17                          | Supplement and Addendum to Petition to Assume<br>Jurisdiction of Trust; confirm Trustees'<br>Instructions, etc. Alternatively to Reform<br>Trust Agreement                      | APP-ROA--102-105       |
| 9/15/17                          | Petitioner's Opposition to Motion to Dismiss                                                                                                                                    | APP-ROA--106-115       |
| <i><b>APPENDIX VOLUME 2:</b></i> |                                                                                                                                                                                 |                        |
| 10/4/17                          | Reply to Petitioner's Opposition to Motion<br>to Dismiss                                                                                                                        | APP-ROA--116-156       |
| 10/13/17                         | Response to Petition to Assume Jurisdiction<br>of Trust; Confirm Trustees; Instrutions, Etc.<br>and Joinder in Motion to Dismiss Pursuant<br>to NRCP 12(b)(1) and NRCP 12(b)(5) | APP-ROA--157-165       |
| 10/25/17                         | Accounting                                                                                                                                                                      | APP-ROA--166-173       |
| 10/25/17                         | Inventory and Record of Value                                                                                                                                                   | APP-ROA--174-184       |
| 10/31/17                         | Notice of Entry of Order                                                                                                                                                        | APP-ROA--185-193       |

| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                                           | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 3:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/3/17                           | Joint Petition for Review of Former Trustees<br>Refusal to Provide a Proper Accounting<br>Pursuant to NRS 165.143                                                                                                                                                                                                                                | APP-ROA--194-222       |
| <i><b>APPENDIX VOLUME 4a:</b></i> |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/13/17                          | Joint Objection to Petition Jurisdiction Etc.<br>Part 1                                                                                                                                                                                                                                                                                          | APP-ROA--223-298       |
| <i><b>APPENDIX VOLUME 4b:</b></i> |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/13/17                          | Joint Objection to Petition Jurisdiction Etc.<br>Part 2                                                                                                                                                                                                                                                                                          | APP-ROA--299-373       |
| <i><b>APPENDIX VOLUME 5:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 12/4/17                           | Petitioner's Opposition to Motion for<br>Review/Proper Accounting                                                                                                                                                                                                                                                                                | APP-ROA--374-413       |
| 12/14/17                          | Petitioner's Opposition to Joint Counterpetition<br>to Confirm/Breach of Fiduciary Duty, Etc.<br>Request for Discovery                                                                                                                                                                                                                           | APP-ROA--414-428       |
| <i><b>APPENDIX VOLUME 6:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 12/12/17                          | Motion for Compliance with and Enforcement<br>of Court Order, and for Sanctions Relating<br>Thereto, for Order to show cause why Former<br>Trustees should not be held in Contempt,<br>for Order Compelling Former Trustees to<br>Account, and for Access to and Investment<br>Control of Trust Funds Belonging to the<br>Christian Family Trust | APP-ROA--429-452       |

| <b><i>DATE</i></b> | <b><i>DOCUMENT</i></b>                                                                                                                                                      | <b><i>NUMBERED</i></b> |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1/4/18             | Notice of Suggestion of Death                                                                                                                                               | APP-ROA--453-454       |
| 1/11/18            | Opposition to Motion for Compliance, Enforcement Sanctions, Contempt, Etc.; Counterpetition for Distribution and Vacating all Pending Matters and Dismiss Trust Proceedings | APP-ROA--455-508       |

***APPENDIX VOLUME 7a:***

|         |                                                 |                  |
|---------|-------------------------------------------------|------------------|
| 1/26/18 | Petition to Confirm Successor Trustee<br>Part 1 | APP-ROA--509-539 |
|---------|-------------------------------------------------|------------------|

***APPENDIX VOLUME 7b:***

|         |                                                 |                  |
|---------|-------------------------------------------------|------------------|
| 1/26/18 | Petition to Confirm Successor Trustee<br>Part 2 | APP-ROA--540-569 |
|---------|-------------------------------------------------|------------------|

***APPENDIX VOLUME 8:***

|         |                                                                                                            |                  |
|---------|------------------------------------------------------------------------------------------------------------|------------------|
| 2/6/18  | Amended Notice of Entry-Omnibus Order                                                                      | APP-ROA--570-576 |
| 2/8/18  | Petition for Fees and Costs                                                                                | APP-ROA--577-659 |
| 2/23/18 | Notice of Non-Opposition and Limited Joinder to the Petition for Fees and Costs for Anthony L. Barney, LTD | APP-ROA--660-663 |
| 2/23/18 | Opposition to Petition to Confirm Successor Trustee; Counterpetition for Reinstatement of Petitioners      | APP-ROA--664-735 |
| 3/8/18  | Monte Reason's Application for Reimbursement of Administrative Expenses                                    | APP-ROA--736-741 |

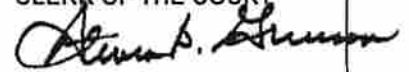
| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                    | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 9:</b></i>  |                                                                                                                                           |                        |
| 3/9/18                            | Petitioners Combined Opposition to (1) Barney Firm Petition For Fees, Etc. (2) Monte Reason's Application for Reimbursement               | APP-ROA--742-840       |
| <i><b>APPENDIX VOLUME 10:</b></i> |                                                                                                                                           |                        |
| 3/12/18                           | Reply to Opposition to Petition to Confirm Successor Trustee; and Opposition to Counter-Petition for Reinstatement of Petitioners         | APP-ROA--841-848       |
| 3/13/18                           | Response to Opposition to Monte Reason's Application for Reimbursement of Administrative Expenses                                         | APP-ROA--849-863       |
| 3/13/18                           | Reply to Petitioner's Combined Opposition to (1) Barney Firm Petition for Fees, Etc., (2) Monte Reason's Application for Reimbursement    | APP-ROA--864-894       |
| 3/15/18                           | Minutes of Hearing – 4/4/18                                                                                                               | APP-ROA--895-898       |
| 3/29/18                           | Motion (1) to Expunge Lis Pendens and/or Strike Pleading; and (2) for Preliminary Injunction                                              | APP-ROA--899-921       |
| <i><b>APPENDIX VOLUME 11:</b></i> |                                                                                                                                           |                        |
| 3/30/18                           | Petitioner's Supplemental Response to Opposition to Petition for Fees (Barney Firm); Request for Evidentiary Hearing, Reopening Discovery | APP-ROA--922-960       |

| <i><b>DATE</b></i>                 | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                               | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 12:</b></i>  |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/2/18                             | Motion for Turnover of Assets and to Dissolve the Injunction Over Christian Family Trust Assets                                                                                                                                                                                                                      | APP-ROA--961-998       |
| 4/3/18                             | Countermotion 1) to Strike Petitioner's Supplemental Response to Opposition to Petition for Fees (Barney Firm); request for Evidentiary Hearing, and Reopening Discovery; 2) To Find the Former Trustees to be Vexatious Litigants, and 3) For sanctions Against Cary Colt Payne Pursuant to NRS 7.085 and EDCR 7.60 | APP-ROA--999-1036      |
| <i><b>APPENDIX VOLUME 13a:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 1                                                                                                                                                                                                                                                                                            | APP-ROA-1037-1061      |
| <i><b>APPENDIX VOLUME 13b:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 2                                                                                                                                                                                                                                                                                            | APP-ROA-1062-1186      |
| <i><b>APPENDIX VOLUME 13c:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 3                                                                                                                                                                                                                                                                                            | APP-ROA-1087-1111      |
| <i><b>APPENDIX VOLUME 13d:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 4                                                                                                                                                                                                                                                                                            | APP-ROA-1112-1134      |

| <i><b>DATE</b></i>                 | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                    | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 14a:</b></i> |                                                                                                                                                                                                                                                                                                                           |                        |
| 4/10/18                            | Motion for (1) Fees Pursuant to NRS 165.148<br>(2) Compliance with and Enforcement of<br>Court Order and Sanctions; (3) for Order<br>to Show Cause Why Former Trustees<br>Should Not be Held in Contempt, and<br>(4) for Extension of Discovery<br>Part 1                                                                 | APP-ROA-1135-1279      |
| <i><b>APPENDIX VOLUME 14b:</b></i> |                                                                                                                                                                                                                                                                                                                           |                        |
| 4/10/18                            | Motion for (1) Fees Pursuant to NRS 165.148<br>(2) Compliance with and Enforcement of<br>Court Order and Sanctions; (3) for Order<br>to Show Cause Why Former Trustees<br>Should Not be Held in Contempt, and<br>(4) for Extension of Discovery<br>Part 2                                                                 | APP-ROA-1180-1224      |
| <i><b>APPENDIX VOLUME 15:</b></i>  |                                                                                                                                                                                                                                                                                                                           |                        |
| 4/12/18                            | Notice of Entry of Order (Barney Petition Fees)                                                                                                                                                                                                                                                                           | APP-ROA-1225-1232      |
| 4/19/18                            | Petitioner's Combined Opposition to (1) Motion<br>to Turnover Assets and Dissolve Injunction over<br>Trust Assets; (2) Motion to 1. Expunge Lis<br>Pendens and 2. Preliminary Injunction and<br>Counter-motion for Distribution/ Termination of Trust;<br>Alternatively for Stay/ Set Bond and Set Evidentiary<br>Hearing | APP-ROA-1233-1254      |
| 4/19/18                            | Opposition to Motion for (1) fees, (2) compliance,<br>(3) for Order to Show Cause and (4) Extension<br>of Discovery, counter-motion to Distribute Trust<br>Property (2nd request)                                                                                                                                         | APP-ROA-1255-1292      |

| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                          | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 16:</b></i> |                                                                                                                                                                                                                                                                                                                                 |                        |
| 5/8/18                            | Response to Combined Opposition to (1) Motion to Turnover Assets and Dissolve Injunction Over Trust Assets; (2) Motion to 1. Expunge Lis Pendens and 2. Preliminary Injunction and Opposition to Countermotion or Distribution/Termination of Trust; Alternatively for Stay, Set Bond and Set Evidentiary Hearing               | APP-ROA-1293-1333      |
| 5/11/18                           | Supplement to response to Combined Opposition to (1) Motion to Turnover Assets and Dissolve Injunction Over Trust Assets; (2) Motion to 1. Expunge Lis Pendens and 2. Preliminary Injunction and Opposition to Countermotion for Distribution/Termination of Trust; Alternatively for Stay/Set Bond and Set Evidentiary Hearing | APP-ROA-1334-1337      |
| 5/16/18                           | Hearing Transcript                                                                                                                                                                                                                                                                                                              | APP-ROA-1338-1390      |
| <i><b>APPENDIX VOLUME 17:</b></i> |                                                                                                                                                                                                                                                                                                                                 |                        |
| 6/1/18                            | Notice of Entry of Order (Utkin suspension)                                                                                                                                                                                                                                                                                     | APP-ROA-1391-1401      |
| 10/8/18                           | Notice of Entry – Probate Commissioner R&R (Hearing re Utkin removal)                                                                                                                                                                                                                                                           | APP-ROA-1402-1408      |
| 11/13/18                          | Notice of Entry – Order Affirming Probate Commissioner R&R (Utkin removal)                                                                                                                                                                                                                                                      | APP-ROA-1409-1414      |





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22 Attorneys for Monte Reason, Trustee

23 EIGHTH JUDICIAL DISTRICT COURT

24 CLARK COUNTY, NEVADA

25 In the Matter of the

Case Number: P-17-092512-T

Dept.: S

26 THE CHRISTIAN FAMILY TRUST

27 Dated October 11, 2016

28 **JOINT PETITION FOR REVIEW OF FORMER TRUSTEES REFUSAL TO PROVIDE  
A PROPER ACCOUNTING PURSUANT TO NRS 165.143**


29 Nancy Christian ("Nancy" or "Trustor"), by and through their attorneys at the law firm  
30 of Anthony L. Barney, Ltd., and Monte Reason, Trustee ("Mr. Reason" or "Trustee"), by and  
31 through his attorney, Joseph J. Powell, Esq., of the law firm of Rushforth, Keifer & Lee, PLLC,  
32 hereby files their Joint Petition for Review of Former Trustees' Refusal to Provide a Proper  
33 Accounting Pursuant to NRS 165.143 ("Petition"). This Petition is based upon the pleadings and

cts- email

1 papers on file herein, the memorandum of points and authorities, any exhibits filed herewith, the  
2 Verifications attached hereto, and any oral arguments presented at the time of the hearing.

3 Dated this 3<sup>rd</sup> day of November 2017.

4  
5 RESPECTFULLY SUBMITTED

6   
7 TIFFANY S. BARNEY, ESQ.  
8 Attorney for Nancy Christian

9   
10 JOSEPH J. POWELL, ESQ.  
11 Attorney for Monte Reason, Trustee

12 MEMORANDUM OF POINTS AND AUTHORITIES  
13 ON OBJECTION

14 I. Facts Presented:

15 On August 22, 2017, Nancy Christian, by and through her attorneys made a formal  
16 request for an accounting to the Former Trustees: Susan Christian-Payne ("Susan"), Raymond  
17 Christian, Jr. ("Raymond Jr."), and Rosemary Keach ("Rosemary") (collectively referred to as  
18 the "Former Trustees") from October 2016 when they accepted their roles as trustees to June 12,  
19 2017 when they were removed as Trustees.<sup>1</sup> Ms. Christian reminded the Former Trustees that  
20 the request for an accounting had been made and that it was due on October 21, 2017.<sup>2</sup>

21  
22 After the October 21, 2017 deadline, Nancy received an accounting and inventory of  
23 value for the Trust assets.<sup>3</sup> The accounting failed to comport with the requirements of and was  
24 from the date of death of Raymond T. Christian, Sr. ("Raymond Sr."), instead of when the  
25 trustees started to take actions as trustees on October 11, 2016. Therefore, Nancy and Mr.  
26  
27  
28

<sup>1</sup> See email and formal letter dated August 22, 2017 attached hereto and incorporated herein as Exhibit 1.

Reason request that the Former Trustees comply with NRS 165.135 and provide an accounting that, at the very least, comports with statute from October 11, 2016 until June 12, 2017.

**II. Legal Authority and Argument:**

NRS 165.143 requires a demanding beneficiary whose demand for an accounting is rejected or deemed rejected to “file a petition seeking the court’s review of the trustee’s rejection within 60 days after the rejection date.” NRS 153.031(h) provides that a court may compel the Trustee to account to a beneficiary. The trustee is required to file an account that comports with NRS 165.135 within the sixty-day deadline required by NRS 165.141(2)(a). Based on the Former Trustees’s failure to provide a proper account that comports with NRS 165.135 within the sixty-day deadline, Nancy and Mr. Reason have brought this Petition to compel a proper accounting, and to hold Former Trustees personally liable for the for the cost of procuring an inventory and accounting.

***1. Former Trustees’ Accounting and Inventory do not comport with NRS 165.135 and are not valued at the time they took over trusteeship.***

A demand for an accounting under NRS 165.141 requires that “[N]otwithstanding any provision to the contrary in the trust instrument, but subject to the right of the trustee to petition the court for further instructions pursuant to subsection 2 of NRS 165.148, and subject to the exceptions set forth under paragraph (b) of subsection 1 of NRS 165.1207, a trustee shall provide an account conforming with the requirements of NRS 165.135 to a beneficiary pursuant to a demand by such beneficiary pursuant to NRS 165.141.”<sup>4</sup> (emphasis added).

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<sup>2</sup> See letters dated September 21, 2017 and September 29, 2017, attached hereto and incorporated herein as Exhibit 2.

<sup>3</sup> See Accounting and Inventory of Value filed on October 25, 2017.

<sup>4</sup> See NRS 165.138.

1 NRS 165.138 applies "notwithstanding any provision to the contrary in the trust instrument,"  
2 and it makes an accounting mandatory to any demanding beneficiary.<sup>5</sup>

3       Herein, the Former Trustees requested an accounting from the time that the Former  
4 Trustees accepted the trusteeship in October 2016 until they were removed as trustees in June  
5 2017. After the sixty day deadline had passed, the Former Trustees provided an accounting that  
6 failed to comport with the requirements of NRS 165.135.<sup>6</sup> Furthermore, the inventory was  
7  
8

9  
10 <sup>5</sup> See NRS 165.138 stating in part, "a trustee shall provide an account conforming with the requirements of NRS  
165.135 to a beneficiary pursuant to a demand by such beneficiary pursuant to NRS 165.141."

11 <sup>6</sup> NRS 165.135 Form and contents of account.

12 1. An account must include:

13 (a) A statement indicating the accounting period;

14 (b) With respect to the trust principal:

15 (1) The trust principal held at the beginning of the accounting period, and in what form held, and the  
16 approximate market value thereof at the beginning of the accounting period;

17 (2) Additions to the trust principal during the accounting period, with the dates and sources of acquisition;

18 (3) Investments collected, sold or charged off during the accounting period;

19 (4) Investments made during the accounting period, with the date, source and cost of each investment;

20 (5) Any deductions from the trust principal during the accounting period, with the date and purpose of each  
21 deduction; and

22 (6) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the  
23 approximate market value thereof at that time;

24 (c) With respect to trust income, the trust income:

25 (1) On hand at the beginning of the accounting period, and in what form held;

26 (2) Received during the accounting period, when and from what source;

27 (3) Paid out during the accounting period, when, to whom and for what purpose; and

28 (4) On hand at the end of the accounting period and how invested;

(d) A statement of unpaid claims with the reason for failure to pay them; and

(e) A brief summary of the account, which must include:

(1) The beginning value of the trust estate:

(I) For the first accounting, the beginning value of the trust estate shall consist of the total of all  
original assets contained in the beginning inventory.

(II) For accountings other than the first account, the beginning value of the trust estate for the  
applicable accounting period must be the ending value of the prior accounting.

(2) The total of all receipts received during the accounting period, excluding capital items.

(3) The total of all gains on sales or other disposition of assets, if any, during the accounting period.

(4) The total of disbursements and distributions during the accounting period.

(5) The total of all losses on sales or other disposition of assets, if any, during the accounting period.

(6) The total value of the trust assets remaining on hand at the end of the accounting period.

2. A summary of the account pursuant to paragraph (e) of subsection 1 must be in substantially the following  
form:

CHARGES

[Add one of the following alternatives]

[Alternative 1: First, or first and final account]

Amount of inventory and appraisal \$.....

1 dated from the date of death of Raymond Sr., instead of the date when the Former Trustees  
2 accepted their trusteeship. The Former Trustees should be required to provide an inventory and  
3 accounting that comports with NRS 165.135 from the time they became trustees in October  
4 2016 until they were removed in June 2017. Notably, the Former Trustees have not yet  
5 provided the Trust assets or funds to Mr. Reason, the current trustee; therefore, they should also  
6 be ordered to account for all Trust assets or funds that were in their possession until they finally  
7 relinquish them to Mr. Reason.  
8

9  
10 **2. *Former Trustees should be personally liable for the cost of providing an accounting pursuant to NRS 165.148***

11 Pursuant to NRS 165.148, "a trustee who fails to provide an account... when required  
12 pursuant to the provision of this chapter, is personally liable to each person entitled to receive an  
13 account who demanded the account in writing pursuant to this chapter or all costs reasonably  
14 incurred by each such person to enforce the terms of the trust or this chapter, including, without  
15  
16  
17

18 Amount of supplemental inventories \$.....  
19 [Alternative 2: Subsequent account]  
20 Property on hand at beginning of account \$.....  
21 Additional property received \$.....  
22 [Continue]  
23 Receipts (Schedule \_\_\_\_ ) \$.....  
24 Gains on sale or other disposition (Schedule \_\_\_\_ ) \$.....  
25 Net income from trade or business (Schedule \_\_\_\_ ) \$.....  
26 Total Charges: \$.....

27 CREDITS  
28 Disbursements during account period Schedule \_\_\_\_ ) \$.....  
[If applicable, add the following option]  
[Option: Distributions to testamentary trust]  
Principal Income (Schedule \_\_\_\_ ) \$.....  
Losses on sale or other disposition (Schedule \_\_\_\_ ) \$.....  
Net loss from trade or business (Schedule \_\_\_\_ ) \$.....  
Distributions (Schedule \_\_\_\_ ) \$.....  
Property on hand at close of account (Schedule \_\_\_\_ ) \$.....  
Total Credits: \$.....



1 limitation, reasonable attorney's fees and court costs. The trustee shall not expend trust funds to  
2 satisfy the trustee's personal liability imposed under this subsection."

3 Nancy and Mr. Reason are clearly listed as beneficiaries under the Trust. Nancy's  
4 interest in the Trust is a vested interest. As a vested beneficiary of the Trust, Nancy has a right  
5 to and is entitled to a proper accounting of how the Trust assets were used from the time the  
6 Former Trustees accepted their trusteeship until their removal. She made a demand pursuant to  
7 statute<sup>7</sup> and the demand was rejected by Former Trustees by their failure to provide an  
8 accounting within the statutory sixty days and, then, by failing to provide a proper accounting  
9 pursuant to NRS 165.135 after the expiration of the sixty-day time period.  
10

11  
12 NRS 165.148 is clear that the Former Trustees must now bear the financial responsibility  
13 for the costs associated with the procurement of the accounting, including the Petitioner's  
14 attorney's fees and costs. Also, NRS 165.148 does not allow Former Trustees to expend Trust  
15 funds to satisfy their liability in this regard. The Petitioner's estimate that the fees and costs  
16 associated with procuring an accounting thus far are approximately \$2,000.00, a detailed  
17 description of such costs will be provided upon a determination of liability by this Court.  
18

19 **III. Conclusion:**

20 Based on the foregoing points and authorities, Nancy and Mr. Reason request do the  
21 following:  
22

- 23 A. Find that the Former Trustees failed to provide an accounting within the statutory sixty-  
24 day time period required;  
25 B. Find that Former Trustees failed to provide an accounting and inventory that comported  
26 with NRS 165.135;  
27

28  

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<sup>7</sup> See Exhibit 1.


1 C. Order that the Former Trustees be personally liable for the costs of providing their  
2 improper accounting and a proper inventory and accounting of the Trust from October  
3 2016 until the present;

4  
5 D. Order a proper accounting that comports with NRS 165.135 from the Former Trustees  
6 from October 2016 to the present.

7 E. Any other relief this court deems necessary and proper.

8 DATED this 3<sup>rd</sup> day of November 2017.  
9

10 Respectfully Submitted,  
11 ANTHONY L. BARNEY, LTD.

12 

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20 Beneficiary

21 


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27 Attorneys for Monte Reason, Trustee and  
28 Beneficiary

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VERIFICATION

I, Nancy Christian, hereby declare under penalty of perjury that I have read the above and foregoing JOINT PETITION FOR REVIEW OF FORMER TRUSTEES REFUSAL TO PROVIDE A PROPER ACCOUNTING PURSUANT TO NRS 165.143 ("Petition") and know the contents thereof. I am informed and believe the contents stated in the Supplemental Opposition and upon the basis of such information and belief allege the same to be true.

DATED this 18<sup>th</sup> day of November 2017.

  
\_\_\_\_\_  
Nancy Christian



VERIFICATION

I, Monte Reason, hereby declare under penalty of perjury that I have read the above and foregoing JOINT PETITION FOR REVIEW OF FORMER TRUSTEES REFUSAL TO PROVIDE A PROPER ACCOUNTING PURSUANT TO NRS 165.143 ("Petition") and know the contents thereof. I am informed and believe the contents stated in the Supplemental Opposition and upon the basis of such information and belief allege the same to be true.

DATED this 11 day of November, 2017.

  
\_\_\_\_\_  
Monte Reason

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Cary Colt Payne, Esq.  
Cary Colt Payne, Chtd.  
700 S. 8<sup>th</sup> St.  
Las Vegas, NV 89101  
*Attorney for Susan Christian-Payne,  
RoseFormer Trustees Keach and Raymond  
Christian, Jr.*

10

# Exhibit 1

## Tiffany Barney

---

**From:** Tiffany Barney <tiffany@anthonybarney.com>  
**Sent:** Tuesday, August 22, 2017 3:41 PM  
**To:** 'carycoltpaynechtd@yahoo.com'; 'marja.carycoltpayne@gmail.com'  
**Cc:** Anthony Barney; Secretary; 'Zachary Holyoak'  
**Subject:** Request for Formal Accounting

Dear Mr. Payne –

I have not yet received a response to my formal letter to you dated August 16, 2017 and my email dated August 14, 2017 wherein I requested information regarding the division of the Trust and the allocation of trust assets. There were other items discussed in my August 16<sup>th</sup> letter that also have not yet been answered.

As such, pursuant to NRS 165.141 and Section 11.2 of the Trust, we are hereby demanding an accounting of all trust property from October 2016 until your clients were removed as trustees on June 12, 2017, including California properties and/or their sale proceeds, as well as all other trust property whether personal property (tangible and intangible) or real property. Please provide an accounting that satisfies the form and content of the accounting required by NRS 165.135 within sixty days (60) as required by NRS 165.141(2)(a).

Sincerely,

Tiffany S. Barney  
Attorney at Law  
Anthony L. Barney, Ltd.  
3317 W. Charleston Blvd., Suite B  
Las Vegas, NV 89102-1835  
O: 702-438-7878  
F: 702-259-1116  
[tiffany@anthonybarney.com](mailto:tiffany@anthonybarney.com)  
[www.anthonybarney.com](http://www.anthonybarney.com)

This e-mail message is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521 and is legally privileged. This message and any files attached hereto are confidential and are for the sole use of the intended recipient. IF YOU ARE NOT THE INTENDED RECIPIENT OF THE MESSAGE, PLEASE NOTIFY THE SENDER IMMEDIATELY BY RETURN E-MAIL OR TELEPHONE (702.438-7878), DELETE THE ORIGINAL MESSAGE INCLUDING ALL ATTACHMENTS, AND DESTROY ALL HARD COPIES. ANY UNAUTHORIZED REVIEW, DISTRIBUTION, DISCLOSURE, COPYING, USE, OR DISSEMINATION, EITHER WHOLE OR IN PART, IS STRICTLY PROHIBITED. If you are the intended recipient, please be aware that since e-mails can be altered electronically, the integrity of this communication cannot be guaranteed without using digital signatures or encryption. If you are interested in sending or receiving PGP-signed or PGP-encrypted e-mail, let me know. The attorney-client privilege may apply to this message, but such privilege may be lost if it is shared with someone other than an employee of Anthony L. Barney, Ltd. or of another attorney or law firm who represents you. In accordance with Internal Revenue Service Circular 230, we hereby advise you that if this email or any attachment hereto contains any tax advice, such tax advice was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer by the Internal Revenue Service.

---

**From:** Secretary [<mailto:secretary@anthonybarney.com>]  
**Sent:** Wednesday, August 16, 2017 10:25 AM  
**To:** [carycoltpaynechtd@yahoo.com](mailto:carycoltpaynechtd@yahoo.com)

**Cc:** [tiffany@anthonybarney.com](mailto:tiffany@anthonybarney.com); [tifbarney@gmail.com](mailto:tifbarney@gmail.com)

**Subject:** Letter

Dear Mr. Payne,

Tiffany S. Barney, Esq. asked that I forward the attached letter to you.

Sincerely,

Neva Liebe

Legal Secretary

Anthony L. Barney, Ltd.

3317 W. Charleston Blvd., Suite B

Las Vegas, NV 89102-1835

O: 702-438-7878

F: 702-259-1116

[secretary@anthonybarney.com](mailto:secretary@anthonybarney.com)

[www.anthonybarney.com](http://www.anthonybarney.com)

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Anthony L. Barney, M.S., J.D., LL.M.  
Attorney at Law  
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.  
Attorney at Law  
Licensed in Nevada

Zachary D. Holyoak, J.D.  
Attorney at Law  
Licensed in Nevada

**ANTHONY L. BARNEY, LTD.**  
**A Nevada Professional Law**  
**Corporation**

3317 W. Charleston Boulevard, Suite B  
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Neva Liebe  
Administrative Assistant

Website Address  
www.anthonybarney.com

E-mail Address  
office@anthonybarney.com

---

**FACSIMILE TRANSMITTAL SHEET**

---

**TO: CARY COLT PAYNE, ESQ.**

**DATE: AUGUST 22, 2017**

**FROM: NEVA LIEBE**  
**ADMINISTRATIVE ASSISTANT**

**FAX NUMBER: 702-383-9049**

**TOTAL NUMBER NO. OF PAGES**  
**(INCLUDING COVER):**

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**RUNNER:** ☐ COPY; ☐ ORIGINAL

**FEDEX:** ☐ COPY; ☐ ORIGINAL

**E-MAIL:** ☐ COPY; ☐ ORIGINAL

**SENDER'S FAX NUMBER:**  
702-259-1116

**SENDER'S PHONE NUMBER:**  
702-438-7878

**SENDER'S E-MAIL:**  
secretary@anthonybarney.com

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL AND MAY BE COVERED BY THE ATTORNEY-CLIENT PRIVILEGE AND/OR OTHER APPLICABLE PRIVILEGES. THIS IS INTENDED FOR THE DESIGNATED RECIPIENT ONLY, AND ANY DISSEMINATION, DISTRIBUTION, OR COPY OF THIS COMMUNICATION TO ANYONE ELSE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE OR BY FAX AND DESTROY EVERY PAGE OF THIS TRANSMISSION. THANK YOU.

**ACCOMPANYING DOCUMENTS:**

Letter

**NOTES/COMMENTS:**

Anthony L. Barney, M.S., J.D., LL.M.  
Attorney at Law  
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.  
Attorney at Law  
Licensed in Nevada

Zachary Holvsek, J.D.  
Attorney at Law  
Licensed in Nevada

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Neva Licht  
Administrative Assistant

Website Address  
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E-mail Address  
[office@anthonbarney.com](mailto:office@anthonbarney.com)

August 22, 2017

Cary Colt Payne, Esq.  
CARY COLT PAYNE, CHTD.  
700 S. Eighth Street  
Las Vegas, NV 89101

Re: Christian Family Trust dated October 11, 2016 ("Trust")  
Our Client: Nancy Christian, Trustor and Survivor of the Trust

VIA US FIRST CLASS MAIL AND FACSIMILE

Dear Mr. Payne,

I have not yet received a response to my formal letter to you dated August 16, 2017 and my email dated August 14, 2017 wherein I requested information regarding the division of the Trust and the allocation of trust assets. There were other items discussed in my August 16<sup>th</sup> letter that also have not yet been answered.

As such, pursuant to NRS 165.141 and Section 11.2 of the Trust, we are hereby demanding an accounting of all trust property from October 2016 until your clients were removed as trustees on June 12, 2017, including California properties and/or their sale proceeds, as well as all other trust property whether personal property (tangible and intangible) or real property. Please provide an accounting that satisfies the form and content of the accounting required by NRS 165.135 within sixty (60) days as required by NRS 165.141(2)(a).

If you have any further questions, please feel to contact my office. Thank you for your anticipated cooperation in this matter.

Sincerely,



TIFFANY S. BARNEY  
Attorney at Law  
[tiffany@anthonbarney.com](mailto:tiffany@anthonbarney.com)

# Send Result Report



MFP

TASKalfa 250ci

Firmware Version 2H7\_2F00.013.006 2012.01.06

09/22/2017 16:50  
[2H7\_1000.024.001] [2H7\_1100.002.003] [2H7\_7000.013.006]

Job No.: 046552

Total Time: 0'00'54"

Page: 002

## Complete

Document: doc20170822164853

Anthony L. Barney, M.S., J.D., LL.M.  
Attorney at Law  
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.  
Attorney at Law  
Licensed in Nevada

Zachary D. Helvack, J.D.  
Attorney at Law  
Licensed in Nevada

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Fax: 702-259-1116

Neva Liebs  
Administrative Assistant

Website Address  
www.anthonylbarney.com

E-mail Address  
office@anthonylbarney.com

### FACSIMILE TRANSMITTAL SHEET

TO: GARY COLT PAYNE, ESQ.

DATE: AUGUST 22, 2017

FROM: NEVA LIEBE  
ADMINISTRATIVE ASSISTANT

FAX NUMBER: 702-383-9049

TOTAL NUMBER NO. OF PAGES  
(INCLUDING COVER):  
2

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| No. | Date and Time  | Destination | Times    | Type | Result | Resolution/ECH     |
|-----|----------------|-------------|----------|------|--------|--------------------|
| 001 | 08/22/17 16:49 | 7023839049  | 0'00'54" | FAX  | OK     | 200x100 Normal/Off |



**Return Address:** ANTHONY L BARNEY...  
3317 W CHARLESTON BLVD STE B  
LAS VEGAS, NV 89102  
**Delivery Address:** Cary Colt Payne  
Esq  
700 S. Eighth Street  
Las Vegas, NV 89101-7007

**Print Date:** August 22, 2017 - 04:20:00 PM  
**Mail Date:** August 22, 2017  
**User:** tonybarney  
**Weight:** 0 lbs 1 oz  
**Refund Type:** E-refund  
**Printed Msg:**

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**Cost Code:****Class/Service:** First Class ®**\$0.46****Special Services:****Insurance:** N/A**TOTAL COST:****\$0.46**

# **Exhibit 2**

Anthony L. Barney, M.S., J.D., LL.M.  
Attorney at Law  
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.  
Attorney at Law  
Licensed in Nevada

Zachary Holviek, J.D.  
Attorney at Law  
Licensed in Nevada

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Administrative Assistant

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E-mail Address  
[office@anthonylbarney.com](mailto:office@anthonylbarney.com)

September 21, 2017

Cary Colt Payne, Esq.  
CARY COLT PAYNE, CHTD.  
700 S. Eighth Street  
Las Vegas, NV 89101

Re: Christian Family Trust dated October 11, 2016 ("Trust")  
Our Client: Nancy Christian, Trustor and Survivor of the Trust  
Subject Property: 2848 Bluff Point Dr. Las Vegas, NV 89134

VIA HAND DELIVERY AND EMAIL

Dear Mr. Payne,

I am in receipt of your letter dated September 8, 2017. First, please advised that we are moving forward to take possession of the Subject Property and will do so against Raymond Christian Jr. If any landlord/tenant lease agreement exists, he will need to produce it immediately, otherwise, he can raise his claim in the unlawful detainer action that will be filed against him after the five day is served upon him next week. Again, please be on notice that your client, Raymond Christian J., does not have authorization to reside in or stay in the Subject Property. Please let us know if he will peaceably leave the premises; otherwise we will continue to move forward with the eviction process.

Second, the Trust is valid until it is proven otherwise. Your clients have not attempted to invalidate the provision that allows my client to change the trustees of her trust. Therefore, unless and until a court invalidates that provision of the trust allowing my client to replace your clients as trustees, the Modification and Designation of Trustee and Successor Trustee ("Modification and Designation") is a valid instrument that must be followed. Your clients are no longer the Trustees and should immediately refrain from acting as such.

Based on the clear, unambiguous language of the Trust, our client had the power to change her trustee and did so. On June 13, 2017, I notified you by written letter that your clients were no longer trustees of the Christian Family Trust and provided you with

the Modification and Designation. After that date, any of your clients actions as purported trustees were without authority and therefore void.

Additionally, on June 21, 2017, I provided you an email stating that Joseph Powell, Esq. who was representing the new trustee, Monte Reason, would be sending you the Certificate of Incumbency allowing him to act. On June 27, 2017, Joseph Powell, Esq., sent you a letter with the Certificate of Incumbency attached. Your clients were well aware that they no longer had authority to act.

On June 30, 2017, your clients then proceeded to remove almost the entire balance (\$267,902.53) of the Trust funds from the Trust account. See June 2017 Statement attached hereto and incorporated herein as Attachment 1. In doing so, your clients have converted Trust funds away from its sole beneficiary and disallowed her from obtaining the needed trust funds she requires for living expenses, which the Trust allows to be distributed. We are demanding that your clients turn over the \$267,902.53 that was converted from the Trust immediately; otherwise, we will file a request to have the court find that the funds were converted and request triple damages if your clients do not return said funds.

If your clients continue to act under color of any trusteeship, we will also bring additional claims against them for acting without such authority. We also reserve all rights to bring any and all claims that have and will become known to us through a thorough review of the Chase records and other documents that evidence that your clients were using Trust funds as their own as well as converting additional Trust funds.

Please be advised that we requested an accounting from the prior trustees in writing on August 22, 2017. Therefore, the sixty day deadline to respond is October 21, 2017. We will expect to see any and all Trust assets on this accounting, including any and all life insurance policies for the late Raymond Christian.

Please also let us know the relationship, if any, that you have with Susan Christian-Payne.

I would appreciate a prompt response to my requests. If you have any further questions, please feel to contact my office. Zach or I will be available to assist you in this matter. Thank you for your anticipated cooperation.

Sincerely,



TIFFANY G. BARNEY  
Attorney at Law  
[tiffany@anthonybarney.com](mailto:tiffany@anthonybarney.com)

Attachment: June 2017 Statement  
Cc: Joseph Powell, Esq., [joey@rkllegal.com](mailto:joey@rkllegal.com)

# **Attachment 1**



CHASE PRIVATE CLIENT

June 01, 2017 through June 30, 2017  
 Primary Account: 000000448558040

CHRISTIAN FAMILY TRUST  
 SUSAN G CHRISTIAN-PAYNE TRUSTEE  
 OR RAYMOND TYRONE CHRISTIAN TRUSTEE

Account Number

**CHECKING SUMMARY**

|                                            | AMOUNT     |
|--------------------------------------------|------------|
| Beginning Balance                          | \$5,080.52 |
| Deposits and Additions                     | 800.04     |
| Checks Paid                                | -1,281.25  |
| Ending Balance                             | \$4,599.31 |
| Annual Percentage Yield Earned This Period | 0.01%      |
| Interest Paid This Period                  | \$0.04     |
| Interest Paid Year-to-Date                 | \$0.26     |

**CHECKS PAID**

| CHECK NUMBER      | DATE PAID | AMOUNT     |
|-------------------|-----------|------------|
| 2123 ^            | 05/14     | \$1,281.25 |
| Total Checks Paid |           | \$1,281.25 |

If you see a check description in the Transaction Detail section, it means your check has already been converted for electronic payment. Because of this, we're not able to return the check to you or show you an image on Chase.com.  
 ^ An image of this check may be available for you to view on Chase.com.

**TRANSACTION DETAIL**

| DATE  | DESCRIPTION           | AMOUNT    | BALANCE    |
|-------|-----------------------|-----------|------------|
|       | Beginning Balance     |           | \$5,080.52 |
| 05/14 | Check # 2123          | -1,281.25 | 3,799.27   |
| 05/16 | Remote Online Deposit | 800.00    | 4,599.27   |
| 05/30 | Interest Payment      | 0.04      | 4,599.31   |
|       | Ending Balance        |           | \$4,599.31 |

THIS ITEM IS PART OF A LEGAL STATEMENT RECONSTRUCTION  
GROUP ID G01Sep17-1440  
Sequence number Posting date Amount

CHASE PRIVATE CLIENT

June 01, 2017 through June 30, 2017  
Primary Account

CHRISTIAN FAMILY TRUST  
SUSAN G CHRISTIAN-PAYNE TRUSTEE  
OR RAYMOND TYRONE CHRISTIAN TRUSTEE

Account Number

## SAVINGS SUMMARY

|                                            | AMOUNT       |
|--------------------------------------------|--------------|
| Beginning Balance                          | \$272,902.53 |
| Deposits and Additions                     | 12.98        |
| Other Withdrawals                          | -267,902.53  |
| Ending Balance                             | \$5,012.98   |
| Annual Percentage Yield Earned This Period | 0.05%        |
| Interest Paid This Period                  | \$12.98      |
| Interest Paid Year-to-Date                 | \$56.55      |

The monthly service fee for this account was waived as an added feature of Chase Private Client Checking account.

## TRANSACTION DETAIL

| DATE  | DESCRIPTION       | AMOUNT      | BALANCE      |
|-------|-------------------|-------------|--------------|
|       | Beginning Balance |             | \$272,902.53 |
| 06/30 | 06/30 Withdrawal  | -267,902.53 | 5,000.00     |
| 06/30 | Interest Payment  | 12.98       | 5,012.98     |
|       | Ending Balance    |             | \$5,012.98   |

You earned a higher interest rate on your Chase Private Client Savings account during this statement period because you had a qualifying Chase Private Client Checking account.

**IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR ELECTRONIC FUNDS TRANSFERS:** Call or write us at the phone number or address on the front of this statement (non-personal accounts contact Customer Service) if you think your statement or receipt is incorrect or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the problem or error appeared. Be prepared to give us the following information:

- Your name and account number
- The dollar amount of the suspected error
- A description of the error or transfer you are unsure of, why you believe it is an error, or why you need more information.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days for 20 business days for new accounts) to do this, we will credit your account for the amount you think is in error so that you will have use of the money during the time it takes us to complete our investigation.

**IN CASE OF ERRORS OR QUESTIONS ABOUT NON-ELECTRONIC TRANSACTIONS:** Contact the bank immediately if your statement is incorrect or if you need more information about any non-electronic transactions (checks or deposits) on this statement. If any such error appears, you must notify the bank in writing no later than 30 days after the statement was made available to you. For more complete details, see the Account Rules and Regulations or other applicable account agreement that governs your account.



JPMorgan Chase Bank, N.A. Member FDIC



01-Sep-17

01Sep17-1440

THIS ITEM IS PART OF A LEGAL STATEMENT RECONSTRUCTION  
GROUP ID G01Sep17-1440  
Sequence number Posting date Amount

CHASE PRIVATE CLIENT

June 01, 2017 through June 30, 2017  
Primary Account: [REDACTED]

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Page 4 of 4

01-Sep-17

01Sep17-1440

THIS ITEM IS PART OF A LEGAL STATEMENT RECONSTRUCTION

GROUP ID G01Sep17-1440

Sequence number 002190320814 Posting date 14-Jun-17 Amount 1281.25

|                                                |                                                                               |                                 |                   |
|------------------------------------------------|-------------------------------------------------------------------------------|---------------------------------|-------------------|
| CHASE<br>PRIVATE<br>CLIENT                     | CHRISTIAN FAMILY TRUST<br>1060 DANCING VINES AVE.<br>LAS VEGAS, NV 89163-6320 | 90-7182<br>3222 2123            | 2123              |
| PAY TO THE<br>ORDER OF                         | <i>Cory Colt Payne</i>                                                        | DATE <i>June 1, 2017</i>        | \$ <i>1281.25</i> |
| <i>One thousand two hundred one and 25/100</i> |                                                                               | DOLLARS                         |                   |
| JP Morgan Chase Bank, N.A.                     |                                                                               |                                 |                   |
| MEMO                                           | <i>Attorney Fees</i>                                                          | <i>Suzanne H. Kristin Payne</i> |                   |
| ⑆322271627⑆                                    |                                                                               | ⑆23                             |                   |

|                                                                           |  |
|---------------------------------------------------------------------------|--|
| ENDORSE HERE                                                              |  |
| U.S. Bank National Association<br>Christian Office<br>Las Vegas, NV 89101 |  |

Anthony L. Barney, M.S., J.D., LL.M.  
Attorney at Law  
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.  
Attorney at Law  
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Zachary Holyoak, J.D.  
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Neva Liebs  
Administrative Assistant

Website Address  
[www.anthonybarney.com](http://www.anthonybarney.com)

E-mail Address  
[office@anthonybarney.com](mailto:office@anthonybarney.com)

September 29, 2017

Cary Colt Payne, Esq.  
CARY COLT PAYNE, CHTD.  
700 S. Eighth Street  
Las Vegas, NV 89101

Re: Christian Family Trust dated October 11, 2016 ("Trust")  
Our Client: Nancy Christian, Trustor and Survivor of the Trust  
Subject Property: 2848 Bluff Point Dr. Las Vegas, NV 89134

VIA EMAIL to [carycoltpaynechtd@yahoo.com](mailto:carycoltpaynechtd@yahoo.com) and [marja.carycoltpayne@gmail.com](mailto:marja.carycoltpayne@gmail.com)

Dear Mr. Payne,

I am in receipt of your letter dated September 25, 2017, although I did not receive it by email from you until September 27, 2017. I have and will continue to send correspondence to you through multiple forms of delivery, if needed or required, because you appear have ignored my previous correspondence regarding your clients' removal as trustee and the return of Trust funds. Furthermore, the request for an accounting was required to be in written form, which is the reason for which I sent the request via email and via regular mail.

As detailed in my prior letter, your clients have continued to act as trustees, without authority, even after you were informed that they had been removed as trustees of the Trust. They have withdrawn trust funds from Trust accounts and are now sequestering the Trust funds from the successor trustee and, more importantly, our client, the trustor who is the current beneficiary of those funds. We are again immediately requesting that your clients cease and desist from acting as trustees. If they do not, we will raise the appropriate counterclaims against them. Furthermore, we are providing you with one final request to return Trust funds to counsel for the successor trustee, Joseph J. Powell, Esq., before we request the court find that your clients have converted the same.

I will address Raymond Christian's unauthorized residence in the Subject Property if and when his new counsel contacts me. Notably, Raymond Christian, Jr., has ceased paying taxes on the property, the sewer bill, and the trash bill. If there were an

agreement for him to remain in the Subject Property, that agreement would surely have encompassed paying the taxes, utilities, sewer and trash bill for the Subject Property; yet, he has not paid these bills.

Your assertion that your clients can retain all the assets of the Trust simply because they have raised unfounded objections to the clear language of the trust is without merit and in bad faith. Until your client's invalidate the Trust or that provision of the Trust, it remains valid. From the clear, unambiguous language of Section 9.3 of the Trust, our client changed her trustee. As stated previously, your clients are now without authority to act as trustee of the Trust and risk a claim of conversion for their withholding of trust funds from the new Trustee. Your clients have neither formally requested relief nor made a valid argument which would justify preventing Nancy from removing them as Trustees. Instead, your clients have provided a single email alleging that Mr. Grant has indicated his intent to testify that the provision is a scrivener's error, which is hearsay. Such evidence is inadmissible.

Additionally, even if you had actual testimony from David Grant consistent with your client's assertions, such testimony would not be considered by the court because the provision your clients are challenging is not ambiguous. See *Frei v. Goodsell*, 305 P.3d 70, 74, 2013 Nev. LEXIS 53, \*12-13, 129 Nev. Adv. Rep. 43, 2013 WL 3366670 stating "[i]f the language of the trust instrument is plain and capable of legal construction, that language determines the force and effect of the instrument . . . [and] extrinsic evidence will not be admitted to alter the plain language of the instrument." (emphasis added). Furthermore, I find it difficult to believe that a court would go against the Settlor's understanding of the document while she is alive and able to testify that such provision was in fact her intent.

Your client's attempts to challenge the terms are for their own self-interests and gain, which was contrary to their fiduciary duty while acting as trustees. Even if your client's were able to invalidate Section 9.3 of the Trust, their actions in this regard would be sufficient to have them removed by the court for breach of fiduciary duty.

Your assertion that our refusal to participate in a joint conference call between you and David Grant constitutes bad faith is without merit. You are inviting us to or otherwise requesting us to waive attorney-client privilege for our client, which we will not do. Furthermore, Mr. Grant is ethically unable to discuss any matters regarding his representation of Nancy Christian to third parties as such information is privileged and confidential. Our client only waived confidentiality between her and her husband to allow the joint representation in drafting the Trust instrument. She did not waive confidentiality as to any third parties. Mr. Grant has been informed that Nancy does not consent to his disclosure of any information related to his representation of her. Furthermore, Nancy has never provided a waiver or consent in writing for Mr. Grant to make such disclosures to third parties.

Your attempt to threaten your way into a joint conversation with Mr. Grant seems to be an underhanded attempt to force a waiver of the attorney client privilege and the

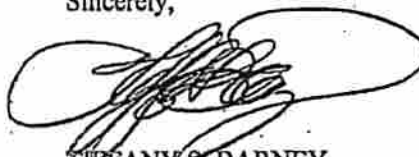
duty of confidentiality owed to Nancy by David Grant. If Mr. Grant chooses to speak to you or any other person regarding his representation of Nancy, it will be without Nancy's consent and over her express objection. We will address the problems caused by such testimony if or when it becomes necessary to do so.

Contrary to your assertion, your clients have not provided a full inventory and accounting of the Trust assets. Please do so by the deadline of October 21, 2017.

Lastly, you ignored my prior request for you to tell us your relationship with Susan Christian-Payne. Please tell us your relationship, if any, with her.

If you would like to discuss this matter please call my office and Zach or I will be able to discuss these issues with you. We can be reached at 702-438-7878

Sincerely,



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